

**MEMO ENDORSED**

MICHAEL A. CARDOZO
Corporation Counsel

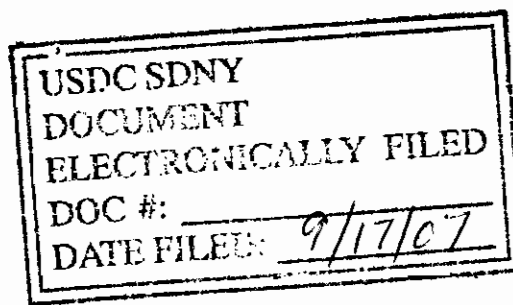
THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

JAMES MIRRO
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September 11, 2007

BY FAX

The Honorable James C. Francis IV
United States Magistrate Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street - Room 1960
New York, New York 10007-1312



Re: Banno v. The City of New York, et al.
USDC SDNY 06 CV 2270 (KMK) (JCF)

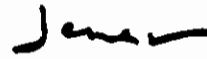
Dear Judge Francis:

Your Honor's order of September 5, 2007 directed the parties to advise you by today if they have agreed on dates for the depositions of plaintiff Banno and Badge 6216 before November 16. As you may recall, plaintiff previously had demanded that defendants reschedule all remaining depositions in this case for the same week. Accordingly, on September 7, I wrote plaintiff's counsel and proposed the dates of November 12 (for plaintiff Banno) and November 14 (for Badge 6216). Although my schedule was completely booked with back to back RNC depositions between now and November 16, I arranged with a colleague to cover depositions for which I previously was scheduled on November 12 and 14.

When I last corresponded with plaintiff's counsel concerning these dates, he was unsatisfied with the date of November 12 for plaintiff Banno because of purported airline fares at that time. Subsequently, the focus of his objection has shifted from the date of plaintiff's deposition to the date of 6216's deposition. He now demands to take 6216's deposition before he produces Banno for deposition. Because my schedule is completely booked between now and November 16, and because defendants already have produced to plaintiff numerous defense witnesses in this case (e.g. Det. Park, PO Sangare, PO Rivera, Det. Cummings, Det. Ahearn) before examining plaintiff, defendants respectfully request that the Court order that the foregoing depositions proceed on the dates proposed above.¹ Thank you.

¹ Defendants note that they have taken an appeal with respect to the deposition of 6216.

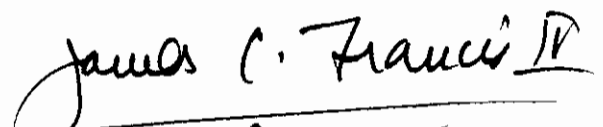
Very truly yours,


James Mirro

cc: Jeffrey Fogel, Esq. (by email)

9/14/07

John Doe, Badge 6216 shall be
deposed on November 12, 2007, and
Yusuke Banno shall be deposed on
November 14, 2007. The cost
considerations cited by plaintiff
justify taking the depositions
in this order.

SO ORDERED.

JSMJ